REMARKS

The Examiner is thanked for the careful review of the subject application.

Claims 1-29 are pending in the present application. New claims 30 and 31 have been added by this Amendment. It is believed that this Amendment, in conjunction with the following remarks, places the application in immediate condition for allowance or at least place the application in better form for Appeal. Accordingly, entry of this Amendment and favorable consideration of the application are respectfully requested in view of the foregoing amendments and the following remarks.

35 U.S.C. 101 Rejections

Claims 11-20 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. The Office indicates that this rejection has been made because "for a computer-implemented method or a computer program or software instructions to be statutory it must be embodied in a computer readable medium" (See Page 3 of the Office Action). The Applicants respectfully submit the claims are directed to statutory subject matter. Accordingly, the Applicants respectfully traverse each of these rejections for at least the following reasons.

The Applicants respectfully direct the Office's attention to Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility (OG Notices: 22 November 2005, hereinafter "Guidelines"). A relevant section is reproduced below (with emphasis added). [1]

> d. Machine Implemented Test
>
> Whether a claim recites a machine implemented process is not determinative of whether that process claim is statutory. Such a test would recognize that an abstraction merely implemented on a computer is statutory. An example will illustrate the point. Assume that y = 2x + C, where x and C are positive real numbers, is nothing more than an abstract idea. The claim recites: a computer-implemented process comprising providing x and C defined as positive real

[1] See Annex III Section d.

> numbers, multiplying x by 2 to get Z and determining y by adding C to Z. Thus, the claim is nothing more than an abstract idea which is machine implemented and such a claim is not statutory. See, e.g., Benson, 409 U.S. 63, 175 USPQ 673 (finding machine-implemented method of converting binary-coded decimal numbers into pure binary numbers unpatentable). However, using the machine implemented test, the claim would be found to be statutory.
>
> The Federal Circuit held that the mere manipulations of abstract ideas are not patentable. Schrader, 22 F.3d at 292-93, 30 USPQ2d at 1457-58. If a claimed process manipulates only numbers, abstract concepts or ideas, or signals representing any of the foregoing, the claim is not being applied to appropriate subject matter. Schrader, 22 F.3d at 294-95, 30 USPQ2d at 1458-59. The Federal Circuit also recognizes that the fact that a nonstatutory method is carried out on a programmed computer does not make the process claim statutory. Grams, 888 F.2d at 841, 12 USPQ2d at 1829(claim 16 ruled nonstatutory **even though it was a computer-implemented process**).

In contrast to the Office's interpretation, the Guidelines merely caution that a computer-implemented process or method is not always statutory matter. It does not state that a computer-implemented method is not statutory subject matter. As clearly stated above, the computer-implemented method is only nonstatutory if the underlying method is a nonstatutory method (e.g., an abstract idea). As emphasized above, in Grams, claim 16 was ruled nonstatutory even though it was a computer-implemented process because it was directed to a nonstatutory method, not because it was a computer-implemented method. The Office's contention appears to be that all computer-implemented methods are nonstatutory. This contention contradicts virtually all relevant case law in this area and the Guidelines themselves. Further, a simple search of the USPTO's own database for "computer-implemented method" in the issued claims (see results below) indicates over 5000 patents have issued with this claim format.

> Results of Search in US Patent Collection db for:
> ACLM/"computer-implemented method": 5166 patents.
> Hits 1 through 50 out of 5166

Accordingly, the Applicants respectfully submit that claims 11-20 are directed to statutory subject matter as the method disclosed is not an "abstract idea" or directed to other

nonstatutory subject matter (e.g., a law of nature). If the Office wishes to maintain this rejection, the Applicants respectfully request that a specific quotation from the Guidelines be provided stating that a "computer-implemented method" is always nonstatutory or provide specific allegation as to why the underlying method claimed is nonstatutory.

35 U.S.C. 102(b) Rejections

Claims 1-29 are rejected under 35 U.S.C. § 102(b) as being anticipated by US Publication No. 2003/0112952 ("Brown"). The Applicants respectfully traverse this art grounds of rejection.

Brown is directed to a method of merely establishing a telephone connection between a subscriber and a party based on one or more "criteria." Brown teaches that a subscriber may indicate to a telecommunication system a desire to contact a given party which may or may not be available The telecommunication system selects a called party based on the provided criteria, and establishes the connection between the called and calling parties when the parties become available.

Call handling protocols of Brown are not performed at the subscriber

Initially, it is clear from a review of Brown that all of the call handling protocols are implemented by the system, and not at individual subscribers. This is actually confirmed by the Office in that the Office has read each claim element upon some portion of the telecommunications other than the subscriber (e.g., system 500, call processor 530, etc.). For example, the Office reads the "processor" upon the call processor 530 of Figure 5, the "wireless communication interface" upon the user interface 528 of Figure 5, "classify" upon classifier 524 of Figure 5, and so on. None of these network elements are located at a wireless device, such as caller 502 or called party 504.

Now turning to the present claims, the Applicants note that each element recited in claims 1 and 10 is included within "[a] wireless device." Likewise, claims 11 and 20 are directed to computer-implemented methods "at a wireless device," and claim 21 is directed to a computer readable medium including instructions executed at "a wireless device." It is respectfully submitted that the teachings of Brown do not disclose or suggest, at a wireless device, implementing features such as "classify the attempted incoming communication connection using identifying information of the attempted incoming communication connection" and "perform a predetermined response to the attempted incoming communication connection based upon a classification of the attempted incoming communication connection" as recited in independent claim 1 and similarly recited in independent claims 10, 11, 20 and 21.

As such, claims 2-9, 12-19, and 22-29, dependent upon independent claims 1, 11, and 21, respectively, are likewise allowable over Brown at least for the reasons given above with respect to independent claims 1, 11, and 21.

Brown does not disclose responsive action based on classification

The Office reads the claimed "classify" step on classifier 524 of Figure 5, and the claimed "perform a predetermined response" step on paragraphs [0093]-[0098], generally. Brown mentions the classifier 524 in only one section, where Brown states:

> Classifier 524 may classify parties requesting access to a subscriber data page according to their identities, methods of access, and so on. Classifier may also classify or categorize subscriber data as it is received or stored. (See Paragraph [0153] of Brown)

Thus, the classifier 524 performs party or subscriber classifications. Now turning to paragraphs [0093]-[0098] of Brown, the Applicants cannot find any mention of using the classification performed by classifier 524 as triggering any type of responsive action (or used in any other way). For example, in [0094] Brown states "[i]n one embodiment of the invention, a

subscriber may choose to accept only calls placed through the system (as opposed to direct calls from a caller)". However, classifier 524 performs party classifications, whereas the above noted embodiment is a system or non-system triggered event (i.e., not a party classification triggered event).

Accordingly, the Applicants respectfully submit that if the Office reads the claimed "classify" step on classifier 524 of Brown, then Brown cannot disclose or suggest "perform a predetermined response … based upon [the] classification" as recited in independent claims 1, 10, 11, 20 and 21.

As such, claims 2-9, 12-19, and 22-29, dependent upon independent claims 1, 11, and 21, respectively, are likewise allowable over Brown at least for the reasons given above with respect to independent claims 1, 11, and 21.

Newly added claims 30 and 31 are also allowable over Brown

Further, new claim 30 has been added which recites the feature to provide a default response to a calling party that is attempting the attempted incoming communication connection if the processor cannot classify the attempted incoming communication connection, the default response not being an establishment of a connection between the calling party and the wireless device.

As discussed previously, Brown does not disclose any actions or inactions performed in response to classifications made by classifier 524. Further, Brown does not disclose the possibility of classification failure by the classifier 524, and as such cannot disclose actions performed in response to classification failure as presently recited in dependent claims 30 and 31.

Accordingly, the Applicants respectfully request that the Office allow claims 30 and 31 for at least this additional reason.

In view of the above remarks, the Applicants respectfully submit that claims 1-31 are allowable over Brown. The Applicants respectfully request that the Office withdraw this art ground of rejection.

CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated January 18, 2008

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